

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DERRICK DAWSON,)	
)	
Petitioner,)	Civil Action No. 21-172J
)	Magistrate Judge Maureen P. Kelly
v.)	
ATTORNEY GENERAL OF THE STATE)	Re: ECF No. 15
OF PENNSYLVANIA;)	
DISTRICT ATTORNEY FOR BLAIR)	
COUNTY, PENNSYLVANIA, <i>and</i>)	
JOHN RIVELLO,)	
)	
Respondents.)	

ORDER OF COURT

Derrick Dawson (“Petitioner”) is a state prisoner currently incarcerated at the State Correctional Institution at Huntingdon (“SCI-Huntingdon”) in Huntingdon, Pennsylvania. Petitioner initiated this action on October 1, 2021, by submitting a “Petitioner for Writ of Habeas Corpus Pursuant to 28 U.S.C. §2254” (the “Petition”), in which he attacks his criminal convictions in the Court of Common Pleas of Blair County, Pennsylvania, at Docket Nos. CP-07-CR-2038-2011, CP-07-CR-2042-2011, and CP-07-CR-2044-2011 ECF No. 1 at 2.

Currently before this Court is Petitioner’s correspondence filed June 9, 2022, in which he seeks an order compelling Respondents to serve their pleadings on Petitioner at SCI-Huntingdon’s address for legal mail, using a control number issued by the Department of Corrections (“DOC”). ECF No. 15 at 1. This correspondence will be construed as a motion to compel.

Under the Pennsylvania Department of Corrections’ prior policy, mail from a district attorney under the circumstances requested by Petitioner would not have qualified as “privileged mail,” and would not have been delivered by prison officials. See McLaughlin v. Zavada, No. 19-422, 2019

WL 5697347, at *1-3 (W.D. Pa. Nov. 4, 2019) (discussing prior DC-ADM 803). However, the DOC policy was amended on August 10, 2020, to include certain “[m]ail from an elected or appointed federal, state, or local official who has sought and obtained a control number issued by the Department’s Office of Chief Counsel” in the definition of “Incoming Privileged Correspondence.” See DC-ADM 803.1.A.4, 803.1.D, and “Glossary of Terms.” Accordingly, it appears that mail from Respondents – represented by the Blair County District Attorney – would be delivered to Petitioner if it were mailed with a control number.

It further seems that Respondents’ most recent filing – dated June 8, 2022 – was served at both the address for legal mail and via a Florida-based contractor that the Department of Corrections uses for non-legal mail. See ECF No. 13-1 at 1. This filing crossed Petitioner’s present motion in the mail, which was received by this Court on June 9, but is postmarked June 3. ECF No. 15-1 at 1. It is unclear how Respondents’ prior motions were served on Petitioner. See, e.g., ECF No. 8-1 at 1 (indicating that service was made “by means of the First Class Mail, postage prepaid/Court’s electronic filing system.” No mailing address was listed, and Petitioner is not a user of the Court’s CM/ECF system.).

Regardless of how Respondents served Petitioner prior to their most recent filing, it appears that they now are using the address for legal mail at SCI-Huntingdon – presumably with the necessary control number – without intervention by this Court. Accordingly, this Court will decline to issue an order compelling Respondents to do what they appear to be doing on their own. However, if Respondents fail to properly serve Petitioner with a control number via the prison’s address for legal mail in the future, *and* that failure causes delay in receipt of pleadings or motions, Petitioner may move for further relief from this Court.

Accordingly, the following Order is entered:

AND NOW, this 22nd day of June, 2022, IT IS HEREBY ORDERED, ADJUDGED and DECREED that Petitioner's correspondence received on June 9, 2022, is construed as a motion to compel, and is DENIED WITHOUT PREJUDICE to seeking further relief if necessary.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

BY THE COURT:

/s/Maureen P. Kelly

MAUREEN P. KELLY

UNITED STATES MAGISTRATE JUDGE

cc: Derrick Dawson
KR5426
SCI Huntingdon
1100 Pike Street
Huntingdon, PA 16654

All counsel of record (*via* CM/ECF)